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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,312	09/29/2005	Moshe Cohen Amar	044514-0023	6247

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EXAMINER	
REIS, TRAVIS M	

ART UNIT	PAPER NUMBER
2859	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/531,312	AMAR, MOSHE COHEN	
	Examiner	Art Unit	
	Travis M. Reis	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-4 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-4 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 13 April 2005 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims1-4 are objected to because of the following informalities:

In claim 1, line 1, "Precision" should be ---A precision---; in order to be in proper form.

Claim 1 recites the limitation "the aluminum band" in line 8. There is insufficient antecedent basis for this limitation in the claim.

In claim 2, line 1, "Precision" should be ---The precision---; "the previous claim" should be ---claim 1---, in order to be in proper form.

In claims 3 & 4, line 1, "Precision" should be ---The precision---, in order to be in proper form.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

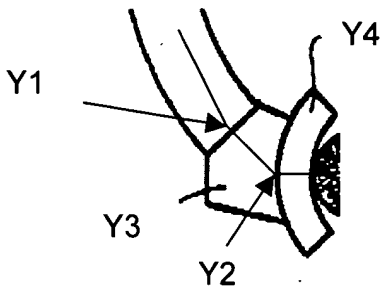
3. Claims 1 &2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer et al. (U.S. Patent 4549355).

With reference to claim 1, Sauer et al. disclose a precision dendrometer (10) using extension measurement bands (R1—R4) as resistances for a Wheatstone Bridge type circuit (Figure 6), said dendrometer consists of a sensor holder (27) that serves as a part for securing the dendrometer to a plant (12), the electronic interface (Figure 6) that connects it to the data collector equipment (101) and a sensor (14); characterized in that said sensor is formed by a toridal/cylindrical body (Figure 1) fixed to one end of a sheet (18) (Figure1), (wherein a "sheet" is defined in Webster's Dictionary as "a relatively thin rectangular slab of metal" and therefore

segment 18 is considered, in a broad sense, a sheet) on which the extension measurement bands are mounted (Figure 2); the other end of the sheet (20) being in contact with the plant, determining, by means of the pressure exerted by this latter, its dimensional variations.

Sauer et al. does not disclose the sheet is made of aluminum. However, the particular type of material used to make the sheet, absent any criticality, is only considered to be the use of a " preferred " or " optimum " material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant's apparatus, i.e., suitability for the intended use of Applicant's apparatus, and since the courts have stated that a selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. See In re Leshin, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the sheet disclosed by Sauer et al. out of aluminum in order to resist corrosion.

With reference to claim 2, Sauer et al. disclose that the end of the aluminum sheet in contact with the plant has a double bend (Y1, Y2, see below) with convergent side edges, forming an approximately triangular (Y3) and rounded end (Y4).



4. Claims 3 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sauer et al. in view of Kutsay (U.S. Patent 2873341).

Sauer et al. discloses all of the instant claimed invention as stated above in the rejection of claims 1 & 2, including an adjusting and securing rod (25) acting as a foot being connected (27) with the sensor holder.

Sauer et al. does not disclose wherein the sensor holder has a part with a cylindrical cavity where the cylindrical body of the sensor is housed and held.

Kutsay discloses a strain gauge device (Figure 1) with a sensor holder (10) with a cylindrical cavity (11) for holding a sensor (16) (Figure 1) in place. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add the cylindrical cavity disclosed by Kutsay to the sensor holder disclosed by Sauer et al. in order that the sensor holder and the sensor disclosed by Sauer et al. are more securely seated together than merely stuck end to end.

Sauer et al. does not disclose a plurality of rods. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a plurality of rods, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. ***St. Regis Paper Co. v. Bemis Co.***, 193 USPQ 8. Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to add a second rod next to the first rod disclosed by Sauer et al. in order to more stably secure the dendrometer to the plant.

With reference to claim 4, Sauer et al. does not disclose said rods are made of a material that has a zero coefficient of expansion. However, the particular type of material used to make the sheet and rods, absent any criticality, is only considered to be the use of a " preferred " or " optimum " material out of a plurality of well known materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of Applicant's apparatus, i.e., suitability for the intended use of Applicant's apparatus, and since the courts have stated that a

selection of a material on the basis of suitability for intended use of an apparatus would be entirely obvious. See In re Leshin, 125 USPQ 416 (CCPA 1960). Therefore, it would have been obvious to one with ordinary skill in the art at the time of the invention was made to make the rods disclosed by Sauer et al. with a zero coefficient of expansion in order that the rod threads do not expand and jam up in high temperatures (i.e. desert), and instead allow for adjustment of the rod at any temperature.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schramm discloses a tree marker (U.S. Patent 2191808). Rights et al. discloses an electric gauge (U.S. Patent 2365593). Ruge discloses a strain responsive apparatus (U.S. Patent 2416664). Verner discloses an apparatus for measurement of radial growth of trees (U.S. Patent 2924019). Fletcher et al. discloses a muscle displacement transducer (U.S. Patent 3937212). Brwon et al. discloses an electronic feeler gauge (U.S. Patent 4967485). Hesske et al. discloses a gauge for measuring tree-trunk growth (U.S. Patent 5067246). Smith discloses a tree marker (U.S. Patent 5774999). Gensler discloses a gauge for measuring changes in the length of a perimeter (U.S. Patent 6009631). Bravdo et al. discloses a leaf thickness sensing device (U.S. Patent 6185833). Nunnelee discloses a force measuring clamp (U.S. Patent 6758098). Takahashi discloses a dendrometer (JP 405260851 A).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M. Reis whose telephone number is (571) 272-2249. The examiner can normally be reached on 8--5 M--F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Travis M Reis
Examiner
Art Unit 2859

Diego Gutierrez
Supervisory Patent Examiner
Tech Center 2800

tmr
November 7, 2006